

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application Number: 10/734,348
Filing Date: 12/12/2003
Applicant(s): Mustansir M. Banatwala, Miguel A. Estrada, Joseph A. Russo,
Sami M. Shalabi
Entitled: METHOD AND SYSTEM FOR NAMED COLLABORATIVE
SPACES IN A COLLABORATIVE COMPUTING
ENVIRONMENT
Examiner: Divecha, Kamal B.
Group Art Unit: 2151
Attorney Docket No.: LOT920030071US1 (7321-25U)

SUPPLEMENTAL REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Supplemental Reply Brief is submitted under 37 C.F.R. § 41.41 in response to the
SUPPLEMENTAL EXAMINER'S ANSWER dated September 22, 2008.

The Examiner's response to Appellant's arguments submitted in the Reply Brief of
August 7, 2008, raises additional issues and underscores the factual and legal shortcomings in
the Examiner's rejection. In response, Appellant relies upon the arguments presented in the
Appeal Brief of March 24, 2008, the Reply Brief of August 7, 2008, and the arguments set forth
below.

In response to the arguments presented on page 3 of the Reply Brief in which Appellants asserted, "Thus, Examiner has construed the term "instantiation" with the display of a window and the term "removal" with the closing of a window. Yet, the term "instantiation" is a term well-known in the computing art that is not synonymous with displaying a window. ", the Examiner asserted the following on page 4 of the Supplemental Examiner's Answer.

Although it was clear that Examiner was referring to the creation of the collaboration area from a single template with preset views, e.g. examiner's answer, pg. 9-10, as managing a common lifecycle since creation of collaboration area also creates business objects and removal of the collaboration area also removes the business objects, the examiner re-states that the creation of a collaboration area from a template with preset views is equivalent to instantiating business components instances, i.e. preset views, when the NCS is instantiated.

As such, in the Supplemental Examiner's Answer, Examiner now provides an explicit claim construction of "instantiation" as "the creation of a collaboration area from a template with preset views". For the same reasons set forth on pages 3 and 4 of the Reply Brief, and with specific reference to Appellants un-refuted evidence of the meaning of "instantiate" according to Merriam-Webster's Dictionary as "to represent (an abstraction) by a concrete instance", the claim construction now expressly provided by Examiner deviates significantly from the well-understood meaning of the term "instantiate". Examiner further has provided no evidence to support Examiner's assertion that the creation of a collaboration area results in the instantiation of business objects and that the removal of a collaboration area results in the destruction of instantiated business component instances.

Strangely, Examiner on page 6 of the Supplemental Examiner's Answer agrees with Appellants' claim construction of "instantiate" (despite Examiner's contradictory claim construction of page 4 of the Supplemental Examiner's Answer), yet provides no argument as to

why Examiner has chosen to ignore the clear definition of "instantiate" in favor of Examiner's new claim construction. Specifically, Examiner stated on page 6 of the Supplemental Examiner's

Answer:

In response, Examiner agrees that displaying a window does not necessarily result from an instantiation nor does the removal of an instance necessarily flow from the closing of a window, however, in this case, i.e. in Moser, displaying a collaboration area, in fact, results from instantiation, i.e. created, as admitted and acknowledged by the appellant, e.g. see point [b] above. Moreover, the appellant specification discloses

[0020] Business component instances provided as part of business process 16 are managed by a specific NCS 10 instance. Although not required, business component instances can share the same life cycle as its corresponding NCS instance. In other words when an NCS 10 is instantiated, a business component instance is also instantiated. When an NCS instance is removed, the business component instance is also removed...

Apart from this, there is no teaching, disclosure and/or suggestion that shows that the management of a common lifecycle, instantiation and/or removal is in light of object-oriented programming and the definition upon which the appellant relies should be given weight in claim construction.

Appellants' specification at paragraph [0020] could not be more lucid: "[W]hen an NCS 10 is instantiated, a business component instance is also instantiated. When an NCS instance is removed, the business component instance is also removed."

In response to Appellants' arguments on page 4 of the Reply Brief in which Appellants argued,

Examiner has not accounted for the teaching of "managing a common lifecycle for each of the provisioned instances of the named collaborative space and the business process components...". On page 12 of the Examiner's Answer, Examiner only states, "Furthermore, the term "each" in the claim fails to set forth a boundary, i.e. the number of created instances. In Moser, one or more instances can be created as set forth above, i.e. with the similar process as used to create instance such as in figure 6. As such, every created instance will have views and the box with sign X, thus managing common lifecycle for each of the provisioned instance of the NCS." Examiner provides no evidentiary foundation for the assertion that Moser teaches the presence of multiple instances of a named collaborative space for which a common lifecycle can be managed for the business process components disposed therein as expressly recited in claims 1 and 8. Examiner appears only to rely upon Examiner's own unsupported allegations.

Examiner responded on page 7 of the Supplemental Examiner's Answer:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e. presence of multiple instances of a named collaborative space for which a common lifecycle can be managed for the business process components) are not recited in the rejected claim(s).

Appellants are puzzled in that the plain language of claim 1 requires the management of a common lifecycle for each of the provisioned instance of the templatable and provisionable named collaborative space and the business process components within the provisioned instance as set forth in the first, second and fifth limitations of claim 1. For the convenience of the Honorable Board, the entirety of claim 1 is reproduced herein as follows:

1. A collaborative computing method for the establishment of a named collaborative space, the method comprising:
 - providing a templatable and provisionable named collaborative space to serve as a basis for establishing instances of named collaborative spaces, the templatable and provisionable named collaborative space defining a work place within the collaborative computing environment and configured to manage a plurality of business process components disposed within an instance of the named space in a one-to-many relationship;
 - provisioning an instance of the templatable and provisionable named collaborative space;
 - identifying a membership set for the named collaborative space, the membership set including one or more members;
 - providing a plurality of business process component instances for management within the provisioned instance of the named collaborative space;
 - and,
 - managing a common lifecycle for each of the provisioned instance of the named collaborative space and the business process components within the provisioned instance of the named collaborative space.

Thus, Appellants maintain that Examiner still has not accounted for the teaching of "managing a common lifecycle for each of the provisioned instances of the named collaborative space and the business process components...".

For the reasons set forth in the Appeal Brief, and for those set forth herein, Appellants respectfully solicit the Honorable Board to reverse the Examiner's rejection under 35 U.S.C. § 102.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 12-2158, and please credit any excess fees to such deposit account.

Date: November 24, 2008

Respectfully submitted,

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